IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2347 of 2006
IN
FIRST APPEAL (ST) NO. 2645 OF 2006
IN
L.A.R. NO. 16 OF 1984

Union of India] .. Applicant

Versus

1. Smt. Piroja Hirji Kanga & ors.] .. Respondents

Mr. S.R. Rajguru i/b Mr. S.S. Sarkar for the applicant.

Mr. R.A. Dadda with Ms. Rajani Iyer i/b M/s. Maneksha & Sethna for respondents 2 and 3.

Mrs. G.P. Mulekar for respondent No.7.

CORAM: R.M. LODHA &
A.S. BAGGA, JJ.

DATED: 16TH JUNE, 2006

P.C. :

. Union of India, through the Deputy Salt Commissioner has preferred First Appeal against the judgment and award passed by the Joint District Judge, Thane in Land Reference No. 16 of 1984, on 18th February, 2005. As the Appeal is barred by time, by means of the present application, the applicant-appellant prays for condonation of delay in

filing the Appeal.

2. It appears from the certified copy of the judgment and award that the application for certified copy of the judgment and award dated 18th February, 2005 was made by the appellant on 22nd February, 2005. The certified copy was ready on 26th October, 2005 and delivered to the appellant on that day. The case of the appellant is that after excluding the time taken in obtaining certified copy of the judgment and award, the Appeal ought to have been lodged on or before 24th January, 2006, but it was lodged on 25th January, 2006. At that time, a note was made by the Section Officer of this Court that there was delay of one day and for which Civil Application ought to be made for condonation of delay. Some other objections were also raised by Section Officer. In the light of the objections raised by Section Officer, the appellant approached their counsel for the purpose of drafting the Civil Application which was prepared on 31st January, 2006 and the Appeal was filed on 3rd February, 2006.

3. The facts aforestated, in our opinion, show that delay is excusable and that the appellant has been able to make out sufficient cause for condonation of delay.

4. Mr. Rafiq Dada, the learned senior counsel for the respondents No.2 and 3, however, submitted that though no reply to the Civil Application has been filed by the respondents No.2 and 3, yet in opposition to the Appeal, reply has been filed by respondents No.2 and 3 raising the objection about the maintainability of Appeal amongst other various objections.

5. At this stage, the question as to whether Appeal is maintainable is not required to be gone into as we are concerned with the application for condonation of delay. It is not in dispute that the Salt Commissioner was impleaded as party-opponent No.3 in Land Reference. In our considered view, the various grounds on which the respondents No.2 and 3 seek to contend that the appellant is not competent to maintain the Appeal can be considered when the Appeal comes up for admission.

6. We are satisfied that the application for condonation of delay makes out sufficient cause.

7. We accordingly grant the Civil Application and condone the delay in filing Appeal. The objection of respondent No.1 about the maintainability of the Appeal

is kept open to be considered at the time of admission.

8. The Office is directed to process the Appeal. If all other objections have been removed by the appellant, post it for admission.

9. Civil Application stands disposed of.

Sd/-
[R.M. LODHA, J.]

Sd/-
[A.S. BAGGA, J.]